

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

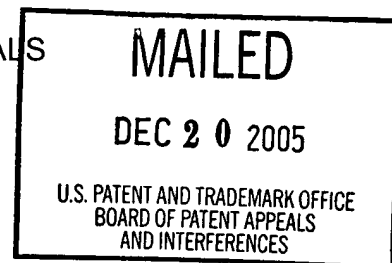
Ex parte JULES ZECCHINO,
MICHELLE MATATHIA,
E. ALTHEA KNIGHT and
JAMES T. HARRISON

Application No. 09/995,358

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on October 5, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that on February 28, 2005, appellants filed an Appeal Brief under the rules set forth in 37 CFR §1.192(c). However, the rules under



37 CFR §1.192 (c) were abolished on September 13, 2004, and replaced by 37 CFR § 41.37(c) which states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

A review of the application reveals that the following sections are missing from the Appeal Brief:

- (1) "Summary of the claimed subject matter" as set forth in 37 CFR § 41.37(c)(1)(v);
- (2) "Grounds of rejection to be reviewed on appeal" as set forth in 37 CFR § 41.37(c)(1)(vi) (replaces "Issues for Review" and "Grouping of Claims");
- (3) "Evidence appendix, as set forth in 37 CFR § 41.37(c)(1)(ix); and
- (4) "Related proceedings appendix" as set forth in 37 CFR § 41.37 (c)(1)(x).

A substitute brief that is in compliance with 37 CFR § 41.37(c) is required. For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- hold the Appeal Brief filed on February 28, 2005 defective;

- have the appellants submit a substitute Appeal Brief in compliance with the new rules set forth in 37 CFR § 41.37 (c) ;
- submit a revised Examiner's Answer in response to the substitute Appeal Brief for compliance with the new rules effective September 13, 2004, and;
- for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



Craig R. Feinberg
Program and Resource Administrator
(571) 272-9797

CRF/cam

Karen A. Lowney, Esq.
Estee Lauder Companies
125 Pinelawn Road
Melville, NY 11747